

Merit Systems Protection Board

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§ 1205.22 Action on request.

(a) *Amendment granted.* If the Board grants the request for amendment, it will notify the requester and provide him or her with a copy of the amendment.

(b) *Amendment denied.* If the Board denies the request for amendment in whole or in part, it will provide the requester with a written notice that includes the following information:

- (1) The basis for the denial; and
- (2) The procedures for appealing the denial.

§ 1205.23 Time limits.

The regional director or the Board will rule on a request for amendment within 10 workdays of receipt of the request in the regional office or the Office of the Clerk except under the unusual circumstances described in paragraphs (a)(1) through (a)(4) of § 1205.12 of this part.

Subpart D—Appeals

§ 1205.31 Submitting appeal.

(a) A partial or complete denial, by the Clerk of the Board or a regional director, of a request for amendment may be appealed to the Chairman, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419.

(b) Any appeal must be in writing, must be clearly and conspicuously identified as a Privacy Act appeal on both the envelope and letter, and must include:

- (1) A copy of the original request for amendment of the record;
- (2) A copy of the denial; and
- (3) A statement of the reasons why the original denial should be overruled.

[54 FR 28662, July 6, 1989, as amended at 55 FR 39911, Oct. 1, 1990; 59 FR 65243, Dec. 19, 1994]

§ 1205.32 Decision on appeal.

(a) The Chairman will decide the appeal within 30 working days unless that official determines that there is good cause for extension of that deadline. If an appeal is improperly labeled, does not contain the necessary information, or is submitted to an inappropriate official, the time period for processing

the appeal will begin when the Chairman receives the appeal and the necessary information.

(b) If the request for amendment of a record is granted on appeal, the Chairman will direct that the amendment be made. A copy of the amended record will be provided to the requester.

(c) If the request for amendment of a record is denied, the Chairman will notify the requester of the denial and will inform the requester of:

- (1) The basis for the denial;
- (2) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A); and

(3) The right to file a concise statement with the Board stating the reasons why the requester disagrees with the denial. This statement will become a part of the requester's record.

[55 FR 39911, Oct. 1, 1990, as amended at 59 FR 65243, Dec. 19, 1994]

PART 1206—OPEN MEETINGS

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AUTHORITY: 5 U.S.C. 552b.

SOURCE: 54 FR 20367, May 11, 1989, unless otherwise noted.

Subpart A—Purpose and Policy

§ 1206.1 Purpose.

The purpose of this part is to prescribe the procedures by which the Board will conduct open meetings in accordance with the Government in the Sunshine Act (5 U.S.C. 552b) ("the Act").

§ 1206.2 Policy.

The Board will provide the public with the fullest practicable information regarding its decision-making processes, while protecting individuals' rights and the Board's ability to carry out its responsibilities. Meetings at which the Board members jointly conduct or dispose of official business are presumptively open to the public. The Board will close those meetings in whole or in part only in accordance with the exemptions provided under 5 U.S.C. 552b(c), and only when doing so is in the public interest.

§ 1206.3 Definitions.

The following definitions apply to this part:

(a) *Meeting* means deliberations of at least two Board members that determine or result in the joint conduct of official Board business.

(b) *Member* means one of the members of the Merit Systems Protection Board.

Subpart B—Procedures**§ 1206.4 Notice of meeting.**

(a) Notice of a Board meeting will be published in the FEDERAL REGISTER at least one week before the meeting. Each notice will include the following information:

- (1) The time of the meeting;
- (2) The place where the meeting will be held;
- (3) The subject and agenda of the meeting;
- (4) Whether the meeting is to be open to the public or closed; and
- (5) The name and telephone number of a Board official responsible for receiving inquiries regarding the meeting.

(b) The Board, by majority vote, may provide less than one week's notice. When it does so, however, it will provide notice of the meeting at the earliest practicable time.

§ 1206.5 Change in meeting plans after notice.

(a) After notice of a meeting has been published, the Board may change the time or place of the meeting only if it announces the change publicly at the earliest practicable time.

(b) After notice of a meeting has been published, the Board may not change either the subject matter of the meeting or the decision that the meeting will be open to the public or closed unless both of the following conditions are met:

(1) By majority, recorded vote, the Board members determine that Board business requires the change and that no earlier announcement of the change was possible; and

(2) Notice of the change, and of the individual Board members' vote, is published in the FEDERAL REGISTER at the earliest practicable time.

§ 1206.6 Decision to close meeting.

(a) *Basis.* The Board, by majority vote, may decide to close a meeting in accordance with the provisions of 5 U.S.C. 552b(c)(1) to 552b(c)(10) when closing the meeting is in the public interest.

(b) *General Counsel certification.* For every meeting that is closed to the public in whole or in part, the General Counsel will certify that closing the meeting is proper, and will state the basis for that opinion.

(c) *Vote.* Within one day after voting to close a meeting, the Board will make publicly available a record reflecting the vote of each member. In addition, within one day after any vote to close a portion or portions of a meeting to the public, the Board will make publicly available a full written explanation of its decision to close the meeting, together with a list naming all persons expected to attend the meeting and identifying their affiliation, unless that disclosure would reveal the information that the meeting was closed to protect.

§ 1206.7 Record of meetings.

(a) *Closed Meeting.* When the Board has decided to close a meeting in whole or in part, it will maintain the following record:

- (1) A transcript or recording of the proceeding;
- (2) A copy of the General Counsel's certification under § 1206.6(b) of this part;
- (3) A statement from the presiding official specifying the time and place of

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the meeting and naming the persons present; and

(4) A record (which may be part of the transcript) of all votes and all documents considered at the meeting.

(b) *Open meeting.* Transcripts or other records will be made of all open meetings of the Board. Those records will be made available upon request at a fee representing the Board's actual cost of making them available.

[54 FR 20367, May 11, 1989, as amended at 54 FR 28664, July 6, 1989]

§ 1206.8 Providing information to the public.

Information available to the public under this part will be made available by the Office of the Clerk of the Board, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419. Individuals or organizations with a special interest in activities of the Board may ask the Office of the Clerk to have them placed on a mailing list for receipt of information available under this part.

§ 1206.9 Procedures for expedited closing of meetings.

Instead of following the procedures described in §§1206.4 through 1206.8 of this part, and in §§1206.11 and 1206.12, the Board may expedite the closing of its meetings under the following conditions by using the following procedures:

(a) *Finding.* (1) Most regular Board business consists of reviewing initial decisions in cases adjudicated after an opportunity for a hearing has been provided. Based on a review of this circumstance, the legislative history of the Civil Service Reform Act of 1978 (Pub. L. 95-454), the Government in the Sunshine Act (5 U.S.C. 552b), and the Board's regulations at 5 CFR part 1201, the Board finds that a majority of its meetings may properly be closed to the public under 5 U.S.C. 552b(c)(10) and 552b(d)(4).

(2) Absent a compelling public interest to the contrary, meetings or portions of meetings that can be expected to be closed under these procedures include meetings held to consider the following: Petitions for review or cases that have been or may be reopened under 5 CFR 1201.114 through 1201.117;

proposals to take action against administrative law judges under 5 CFR 1201.131 through 1201.136; and actions brought by the Special Counsel under 5 CFR 1201.129.

(b) *Announcement.* The Board will announce publicly, at the earliest practicable time, the time, place, and subject matter of meetings or portions of meetings that are closed under this provision.

(c) *Procedure for closing meetings under this section.* At the beginning of a meeting or portion of a meeting that is to be closed under this section, the Board may, by recorded vote of two of its members, decide to close the meeting or a portion of it to public observation. The Board may take this action, however, only after it receives a certification by the General Counsel under § 1206.6(b) of this part.

(d) *Record Availability.* When the Board has closed a meeting or portion of a meeting under this paragraph, it will make the following available as soon as practicable:

(1) A written record reflecting the vote of each participating member of the Board with respect to closing the meeting; and

(2) The General Counsel certification under § 1206.6(b).

Subpart C—Conduct of Meetings

§ 1206.11 Meeting place.

The Board will hold open meetings in meeting rooms designated in the public announcements of those meetings. Whenever the number of observers is greater than can be accommodated in the designated meeting room, however, it will make alternative facilities available to the extent possible.

§ 1206.12 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in the meetings unless they are expressly invited to do so. They also may not create distractions that interfere with the conduct and disposition of Board business, and they may be asked to leave if they do so. Observers of meetings that are partially closed must leave the meeting room when they are asked to do so.